

**COMMENT III: RUSSIA IS NOT COMPARABLE TO OTHER FORMER NME
COUNTRIES GRANTED MARKET-ECONOMY STATUS**

A. Statement of the Issue Addressed in the Comment

Is Russia as far along in reform as other former communist countries to which the Department has granted market-economy status?

B. Summary of Comment

In terms of economic and political reform, Russia is not remotely comparable to the Czech Republic, Latvia or Slovakia at the time the Department granted them market-economy status. Russia and other former Soviet Republics (outside of the Baltics) clearly are in a different category than these more-advanced countries by almost any measure of reform, including economic liberalization, application of the rule of law and democratic political reform. They continue to have fundamental problems with the transition toward credible market-based institutions and democratic systems.

C. Comment

In recent years, the Department has granted market-economy status to the Czech Republic, Latvia and Slovakia. As explained in detail in the attached Freedom House report, *Nations in Transit 2001*,¹ when the Soviet Union collapsed, these three countries (along with other formerly communist countries in Central and Eastern Europe (CEE) and the Baltics), were already well on their way toward economic and political reform. They had a prior institutional history of markets and democratic practices (which had been only interrupted by Soviet conquest). Notwithstanding some remaining problems, it was reasonably apparent at the time market-economy status was granted that they already had or would very soon join the market-based democracies of Europe, given their embrace of democracy and rapid economic reform.

The unfortunate fact is that the countries of the former Soviet Union (outside of the Baltics) have not fared nearly as well in their hopes to transform their economies and join the market-based democracies of the West. As *Nations in Transit 2001* states, based on its comprehensive survey of transition economies,

the survey rates eight CEE states as consolidated market economies.

Not a single non-Baltic post-Soviet state has made it into this

¹ *Nations in Transit 2001* is the "only comprehensive, comparative, multidimensional study of its kind." Adrian Karatnycky, *Nations in Transit: Emerging Dynamics of Change*, in *NATIONS IN TRANSIT 2001* at 13 (Freedom House 2001), attached as Exhibit 9. It "offers a series of signposts that facilitate comparisons of the direction and state of political and economic transition among the states of Central and Eastern Europe (CEE) and the former Soviet Union (USSR)." *Id.* The *Nations in Transit* survey is part of a public-private initiative that is funded primarily by the U.S. Agency for International Development. *See id.* The full report including individual reports for other countries is available at the Freedom House website at www.freedomhouse.org.

category. And, indeed, only Armenia and Moldova appear to have economic ratings that would place them in the upper half of the transitional economy category. Thus, it can be said that of the 12 non-Baltic post-Soviet countries, *none are poised to join the ranks of the dynamic entrepreneurial market economies or of the consolidated democracies in the near future.*²

We have reproduced below pertinent parts of the Freedom House table showing the cumulative scores over the 1997-2001 period for economic and political reform in: (1) Russia; (2) the three countries to which the Department recently granted market-economy status (the Czech Republic, Latvia and Slovakia); and (3) the one other NME country (in addition to Russia) to which the Department declined to grant market-economy status in recent years (Ukraine).³ Freedom House ranks transition countries in nine political and economic subcategories, which are grouped into three broad areas: democratization, rule of law and economic liberalization. For each subcategory, a country is given a score of 1 to 7, with 1 being the best score. The figures in the table below represent the sum of the individual scores for all nine subcategories (except the corruption subcategory due data unavailability for 1997 and 1998).

	1997	1998	2000	2001
MOST ADVANCED (DEMOCRATIC MARKET-ORIENTED STATES)				
Czech Rep.	13	14	15	16
Latvia	18	18	18	17
MIDDLE: MOVING UPWARDS				
Slovakia	29	29	22	21
MIDDLE: MOVING DOWNWARDS				
Ukraine	33	36	36	35
Russia	30	32	34	36

As the table shows, Russia is not remotely in the same category as the three countries to which the Department recently granted market-economy status. In addition, and very significantly, Russia's scores have worsened over the 1997-2001 period. Russia was placed in the category of "Middle: Moving Downwards." In contrast, the Czech Republic and Latvia were considered "Most Advanced (Democratic Market-Oriented States)", with scores that were often twice as good as those of Russia. Slovakia was placed in the "Middle: Moving Upwards" category, and its scores were better than Russia's for each year of the four years and consistently improved over the four-year period.⁴

Breaking down the composite score reflected above into its three categories of

² *Id.* at 16.

³ Alexander J. Motyl, *Ten Years after the Soviet Collapse: Persistence of the Past and Prospects for the Future*, in NATIONS IN TRANSIT 2001 at 37-38 (Freedom House 2001), attached as Exhibit 10.

⁴ *Id.* at 37-38.

democratization,⁵ rule of law⁶ and economic liberalization, and looking at the year 2001,⁷ we see that Russia scored significantly worse than the Czech Republic, Latvia and Slovakia in all three categories, and lower than Ukraine in two out of three.⁸ Given these scores, it is unquestionable that Russia is not even close to being in the same category as the countries to which the Department has granted market-economy status.

	Democratization	Rule of Law	Econ. Liberalization
Czech Republic	1.81	3.13	2.00
Latvia	1.94	2.75	2.50
Slovakia	2.25	3.00	3.25
Ukraine	4.44	5.25	4.33
Russia	4.63	5.38	4.17

Looking at three subcategories comprising the above economic liberalization scores, we see that Russia scored significantly worse than the Czech Republic, Latvia and Slovakia in each subcategory:⁹ (1) Privatization, which considers the legal framework for privatization and the

⁵ In granting market-economy status to the Czech Republic, the Department recognized the importance of democratic reform in creating the freedoms and institutions that underlie market-based systems. See Dep't of Commerce Memorandum from John Brinkman, Program Manager, to the File, Regarding Czech Republic NME Status at 15 (November 29, 1999).

⁶ The "Rule of Law" score is based on the average of the scores for "Constitutional, Legislative, and Judicial Framework" and "Corruption." FREEDOM HOUSE, NATIONS IN TRANSIT 2001, Table A at 25 (Freedom House 2001) ("Nations in Transit"), attached as Exhibit 11. As Freedom House recognizes, "it is impossible to separate corruption from other categories measuring the social, economic, and political health of the transitional economies." Stephen Handelman, *Thieves in Power: The New Challenge of Corruption*, in NATIONS IN TRANSIT 2001 at 52 (Freedom House 2001), attached as Exhibit 12. Among other things, the prevalence of corruption makes "it difficult, if not impossible, for ordinary entrepreneurs to respond to the opportunities of the free market." *Id.* A World Bank Report published in September 2000 concluded that "corruption in the region is developing new dimensions" and, in October 2000, the EBRD "announced tight conditions for lending to Russia in the hope of halting pervasive corruption." *Id.* at 53. Governmental transparency and accountability also are critical to functioning markets. Jean Lemierre, the new president of the European Bank for Reconstruction and Development ("EBRD"), recently emphasized this fact in an interview: "we say: disclose your schemes, explain who you are. . . . Free press, open markets and democracy all work on transparency." *Why the Marble Remains Tarnished*, Euromoney (April 2001), attached as Exhibit 13. In the same interview, Lemierre noted that Ukraine (a country ranked comparably to Russia by Freedom House) "needs a lot of work before it becomes a genuine, normal market economy." *Id.*

⁷ Scores for 2001 reflect the period July 1, 1999 to October 31, 2000. *Nations in Transit*, Table A at 25, attached as Exhibit 11. Since the 2001 ratings are the most current data available for Russia and the Department granted market-economy status to the Czech Republic, Latvia and Slovakia during the above-noted period, we have used the 2001 ratings for comparison purposes.

⁸ See *id.*

⁹ See *id.*

present state of the privatization process¹⁰; (2) Macroeconomic Policy, which covers tax reform, fiscal and monetary policy, and banking reform¹¹; and (3) Microeconomic Policy, which examines property rights, price liberalization, the ability to operate a business, international trade and foreign investment, and the energy sector.¹⁰

	Privatization	Macroeconomic Policy	Microeconomic Policy
Czech Republic	1.75	2.25	2.00
Latvia	2.50	2.50	2.50
Slovakia	3.00	3.25	3.50
Ukraine	4.25	4.25	4.50
Russia	3.75	4.25	4.50

Among the three countries granted market-economy status, Slovakia's scores in the above subcategories are closest to Russia's. However, as shown above, its democratization and rule of law scores are much better than Russia's and its overall reform scores consistently improved over 1997-2001, while Russia's worsened very significantly over that period.

Due to these scores, *Nations in Transit 2001* classified Russia among the "Transitional Economies."¹¹ Significantly, in declining to grant Russia market-economy status previously, the Department noted that "the Russian economy, having emerged from a centrally-planned system, is in a state of transition."¹² The Freedom House scores show very clearly that is still the case. In addition, of the sixteen countries classified as "Transition Economies," Russia (like Ukraine) did not even place in the top half.¹³ In contrast, the Czech Republic, Latvia and Slovakia were all classified as "Consolidated Market" economies -- for the period examined by the Department in granting them market-economy status.¹⁴

An August 2000 paper published by EBRD also finds a large gap between the level of economic reform in the former communist states of central Europe as compared to the countries of the Commonwealth of Independent States ("CIS") like Russia.¹⁵ Examining a variety of factors that characterize centrally planned economies (e.g., higher levels of employment in industry, lack of a financial system to allocate savings to investment, and inefficient use of energy), the EBRD paper finds that the group of countries that have more central planning characteristics include ten countries in the CIS and Southeastern Europe ("SEE"), including Russia. The report concludes that the "financial and institutional framework for a market economy clearly is much weaker than one

¹⁰ *Id.* at 10.

¹¹ *Id.* at 26.

¹² *Notice of Final Determinations of Sales at Less Than Fair Value: Pure Magnesium and Alloy Magnesium from the Russian Federation*, 60 Fed. Reg. 16,440, 16,443 (March 30, 1995) (emphasis added).

¹³ *Nations in Transit*, Table B at 26, attached as Exhibit 11.

¹⁴ *Id.*; See note 7 above.

¹⁵ Daniel Gros & Marc Suhrcke, *Ten Years After: What Is Special About Transition Economies*, Working Paper No. 56, European Bank for Reconstruction and Development (August 2000) (emphasis added), attached as Exhibit 5.

would expect" in the CIS and SEE countries.¹⁶ The paper states that in the advanced former communist countries in central Europe, "the transition is closer to completion" and "10 years were enough to upgrade the economic software, even if the hardware is still recognizably from a different era."¹⁷ The paper concludes that the CIS and some SEE countries "clearly are in a different category. They still have problems with the transition toward credible market based institutions and financial systems. Will they need another decade to catch up?"¹⁸

For the foregoing reasons, it is clear that Russia's level of economic and political reform is not comparable to that of the Czech Republic, Latvia or Slovakia at the time the Department granted these countries market-economy status.

¹⁶ *Id.* at 18 (emphasis added).

¹⁷ *Id.*

¹⁸ *Id.* See also Memorandum of the President of the International Bank for Reconstruction and Development and the International Finance Corporation to the Executive Directors on a Country Assistance Strategy of the World Bank Group for the Russian Federation, The World Bank, para. 33 (1999), attached as Exhibit 4. ("The overall business environment in Russia is significantly less conducive to entry/operation/ expansion/exit of private enterprises than the business environments in the central and eastern European countries that have turned the corner on growth.").